

Notice of Allowability

Application No.

10/046,403

Examiner

Michael C. Miggins

Applicant(s)

DOBRESKI ET AL.

Art Unit

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 4/6/2004.
2. ☒ The allowed claim(s) is/are 33-60,93-124,134 and 135.
3. ☒ The drawings filed on 14 January 2002 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date <u>04262004</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with John Gatz on 4/26/04.

The application has been amended as follows:

In the specification:

The amendment to the specification of 1/14/2002 which read "This application is a divisional of U.S. Patent Application Serial No. 09/309,001, filed May 10, 1999, which has been allowed and is incorporated by reference in its entirety. U.S. Patent Application Serial No. 09/309,001, is a continuation-in-part of U.S. Patent Application Serial No. 08/759,445, which issued on July 6, 1999 as U.S. Patent No. 5,919,535" has been deleted and the sentence - - This application is a divisional of U.S. Patent Application Serial No. 09/309,001, filed May 10, 1999, now U.S. Patent No. 6,376,035, which is incorporated by reference in its entirety. U.S. Patent Application Serial No. 09/309,001, is a continuation-in-part of U.S. Patent Application Serial No. 08/759,445, which issued on July 6, 1999 as U.S. Patent No. 5,919,535. - -

In the claims:

In claim 33, at the beginning of line 5, before "resin" the phrase - - single site catalyst - - has been inserted.

In claim 33, line 5, after "resin" and before "said first resin" the phrase "which is prepared in the presence of a single site catalyst," has been deleted.

In claim 33, line 7, after "which is" and before "low density" the term "a" has been deleted and the phrase - - different from said first resin and is - - has been inserted in place thereof.

In claim 44, line 1, the header "(Amended)" has been deleted and the header - - (Currently Amended) - - has been inserted in place thereof.

In claim 45, line 8, after "resin which is" and before "low density polyethylene" the term "a" has been deleted and the phrase - - different from said first resin and is - - has been inserted in place thereof.

In claim 60, line 1, the header "(Amended)" has been deleted and the header - - (Currently Amended) - - has been inserted in place thereof.

In claim 134, at the end of line 4, after "fin portions is made from" the term "an" has been deleted and the phrase - - a first resin which is - - has been inserted in place thereof.

In claim 134, line 7, after "second resin which is" and before "low density polyethylene," the term "a" has been deleted.

Reasons for Allowance

The following is an examiner's statement of reasons for allowance:

With regard to instant claims 33, 45 and 134, the prior art fails to teach or suggest a fastener for a plastic bag wherein at least one of said fin portion made from a first single site catalyst resin, or a resin selected from the group consisting of an ultra low density polyethylene, a very low density polyethylene, and a metallocene-catalyzed polyethylene and a second resin which is different from the first resin and is low density polyethylene, at least one of said fin portions comprising from about 5 to about 50 wt.% of said first resin, and from about 50 to about 95 wt.% of said second resin.

The closest prior art Takubo et al. teach a fastener for a plastic bag, including a first fin and a second fin portion at least one of said fin portions made from a first resin having a melt index from about 0.2 to about 20 g/10 min and a second resin which is a low density polyethylene at least one said fin portions comprising from about 5 to 50 wt.% of said first resin, and from about 50 to 95 wt. % of said second resin. However, as pointed out by applicant in the response of 3/9/2004, pages 11-12, Takubo et al. actually teach away from applicant's claimed ranges since Table 1 and column 4, lines 9-13 shows failure or undesirable abnormality in the bag when using applicant's claimed ranges. Hodgson, Jr. teach a first resin which is a very low density polyethylene made in the presence of a metallocene catalyst. However, Hodgson, Jr. is not at all directed to a fastener for a plastic bag and neither reference teaches wherein at least one of the fin portions contains from about 50 to 90 wt. % of said first resin and from about 10 to 50 wt. % of said second resin.

Claims 93-124 are allowed over the prior art because the prior art fails to teach or suggest applicant's recited fastener comprising a first and second fin portion wherein at

least one of the fin portions is made from a first resin which is either a resin prepared in the presence of a single site catalyst or is an ultra or very-low density polyethylene and a second resin which is a low density polyethylene wherein at least one of the fin portions contains from about 50 to 90 wt. % of said first resin and from about 10 to 50 wt. % of said second resin.

The closest prior art Takubo et al. teach a fastener for a plastic bag, including a first fin and a second fin portion at least one of said fin portions made from a first resin having a melt index from about 0.2 to about 20 g/10 min and a second resin which is a low density polyethylene at least one said fin portions comprising from about 5 to 50 wt. % of said first resin, and from about 50 to 95 wt. % of said second resin. Hodgson, Jr. teach a first resin which is a very low density polyethylene made in the presence of a metallocene catalyst. However, neither reference teaches wherein at least one of the fin portions contains from about 50 to 90 wt. % of said first resin and from about 10 to 50 wt. % of said second resin. Takubo et al. teach that the first resin may be in an amount as high as 40 wt. % but there is nothing Takubo et al. wherein the first resin is in an amount from 50 to 90 wt. %.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael C. Miggins whose telephone number is (571) 272-1494. The examiner can normally be reached on Monday-Friday; 1:30-10:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pyon Harold can be reached on (571) 272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MCM *dc d*
April 26, 2004

[Signature]
HAROLD PYON
SUPERVISORY PATENT EXAMINER
1772

4/28/04